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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,818	10/27/2003	Yu-Sheng Yao	BHT-3111-370	9670
7590	01/26/2005		EXAMINER	
BRUCE H. TROXELL SUITE 1404 5205 LEESBURG PIKE FALLS CHURCH, VA 22041			RAHMJOO, MANUCHER	
			ART UNIT	PAPER NUMBER
			2676	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/692,818	YAO, YU-SHENG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mike Rahmjoo	2676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 27 October 2003.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-18 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## DETAILED ACTION

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

As per claim 1 line 15 recites "...and may record...". Use of "and" makes the claim language unclear. Instead "which" or "that" may be used to further clarify what is being claimed.

Appropriate correction is required.

The following claims 1 and 16 are rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as his invention.

already  
been  
on  
page

12

of 35 U.S.C. 112:

by pointing out and distinctly  
claiming the subject matter.

, second paragraph, as

by claim the subject matter

cial characteristics of the

As per claim 1  
facial image manually... and line 16 recites "...used as a new template...". For an  
adjustment is to be made through a template, the invention is automatic, but not  
manual. This constitutes a contradiction through the portion of the claim language which  
is drawn to manual adjustment of a facial image.

As per claim 1 line 15 recites "...and may record...". It is not clear if any recording is being performed.

As per claim 11 line 19 recites "...can further be applied...". It is not clear if any adjustment is being applied.

Claim 10 recites the limitation "...the preset portrait image..." in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 2- 9 and 12- 18 are indefinite because they depend on indefinite antecedent claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 8 and 11- 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lobo et al (US Patent 5,835,616), hereinafter, Lobo in view of Giacchetti (US PAP 2003/0065589).

As per claims 1 and 11 Lobo teaches an image-reading unit, for reading and loading an original facial image see for example figures 3 and 6- 10 and column 2 lines 33- 37 for the finding (loading) a human face taken by a video camera; a feature detection unit, for recognizing (see for example figure 3) and positioning facial

characteristics of the facial image see for example column 4 lines 50- 67 for the detection of snakelets as facial characteristics of the facial image; a face-adjusting template database, for storing a plurality of face-adjusting templates that are preset, wherein each different face-adjusting template further comprises different face adjustment parameters that are preset see for example column 9 lines 55- 58 for using the parameters from the refined oval (or the initial oval), both the left and the right iris centers of the template are placed near the respective irises in the image; making an evaluation to determine whether a proper face adjustment template exists see for example ratios that are to be evaluated for age classification in the templates of figures 15a – f; the implementation of a template on a candied face (application of face adjustment through a template) if the computed ratios agree with the result of the evaluation (finding appropriate face- adjusting template through evaluation) see for example column 12 lines 23- 46; a template selection unit, for selecting a face-adjusting template having facial characteristic of intended adjustment from the face-adjusting template database, and the selected face-adjusting template is applied to the original facial image so as to modify the facial characteristic of the original facial image see for example column 9 lines 55- 58 for using the parameters (selecting parameters) from the **refined oval (or the initial oval)**, both the left and the right iris centers of the template are placed near the respective irises in the image; outputting the adjusted facial images see for example figures 16- 19.

However, Lobo does not a manual adjusting unit, which is used for adjusting the facial characteristics of the facial image manually and may record a parameterized

processing procedure and used as a new template, moreover, the new template is stored in the face- adjusting template database.

Giacchetti teaches a manual adjusting unit, which is used for adjusting the facial characteristics of the facial image manually and may record a parameterized processing procedure and used as a new template, moreover, the new template is stored in the face- adjusting template database see for example page 4 paragraph [0055] for an individual performing construction on a facial image by utilizing a user interface.

It would have been made obvious to one of ordinary skilled in the art at the time the invention was made to incorporate the teachings of Giacchetti into Lobo for enabling the individual to simulate use of the selected aesthetic feature on the simulated facial image and to view on the display device an alteration of the simulated facial image having the simulated aesthetic feature and therefore expedite the process of any kind of desirable user adjustment which makes it user friendly and efficient see for example page 1 paragraph [0009].

As per claim 2 Lobo teaches the facial characteristics of the facial image comprises the characteristic of the relative position and proportion of facial features of the facial image see for example figures 6- 9.

As per claim 3 Lobo teaches the facial characteristics of the facial image comprises the characteristic of the skin texture see for example column 25 lines 27- 35 and column 4 lines 33- 36 for wrinkles and snakelets.

As per claims 4 and 12 Lobo teaches the preset face adjustment parameter can be a facial expression parameter of the facial image see for example column 21 lines 5-6 and figures 10- 19.

As per claims 5 and 13 Lobo teaches the preset face adjustment parameter can be a proportion parameter of facial feature of the facial image see for example figures 6-19 and the ratios.

As per claims 6 and 14 Lobo teaches the preset face adjustment parameter can be a skin texture parameter see for example column 25 lines 27- 35 for skin color or facial scars and column 4 lines 33- 36 for the curves and wrinkles.

As per claims 7 and 15 Giacchetti teaches the preset face adjustment parameter can be a skin parameter of brightness-and-contrast see for example page 4 paragraphs [0057- 0058] for the skin color and tone.

As per claims 8 and 16 Giacchetti teaches the preset face adjustment parameter can be a tint parameter of skin color see for example page 4 paragraph [0064] for the skin color and tone.

Claims 9-10 and 17- 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lobo in view of Tian et al (US PAP 2003/0133599), hereinafter, Tian.

As per claims 9- 10 and 17- 18 Lobo does not teach the preset face-adjusting template can be a template having an assortment of dynamic series of facial expression variations and animated comic effect.

However, the background of the prior art of Tian teaches the preset face-adjusting template can be a template having an assortment of dynamic series of facial

expression variations and an animated comic effect (happy, 330) see for example figure 3b.

It would have been obvious to one of ordinary skilled in the art at the time the invention was made to incorporate the teachings of Tian into Lobo to further include variations of expressions and animations so as to automatically label facial expressions thereby facilitating retrieval based on facial expressions and make the device user friendly see for example page 4 paragraph [0055].

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure; US PAP 2002/0082082, 2003/ 0123713, 2002/0102010, and US Patent 6,526,161.

*Matthew C. Bell*  
MATTHEW C. BELL  
SUPERVISOR  
TECHNOLOGY CENTER 2600

**Inquiry**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Rahmjoo whose telephone number is (703) 305-5658. The examiner can normally be reached on 6:30- 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (703) 308- 6829. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872- 9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

Mike Rahmjoo

January 13, 2005